NPS ARCHIVE
1966
FERRELL, B.

Thesis
F265

ACCOPRESS
GENUINE PRESSBOARD BINDER
CAT. NO. BF 2507
OGDENSBURG N. Y. CHICAGO.
TORONTO. LONDON.

DUDLEY KNOX LIBRARY
NAVAL POSTGRADUATE SCHOOL
MONTEREY CA 93943-5101

LEGAL CONTROL OF RESOURCES IN A COUNTERINSURGENCY WAR

A Thesis

Presented To

The Judge Advocate General's School, U. S. Army

The opinions and conclusions expressed herein are those of the individual student author and do not necessarily represent the views of either The Judge Advocate General's School, U. S. Army, or any other governmental agency. Reference to this study should include the foregoing statement.

by

Major Benjamin B. Ferrell, 054488

United States Marine Corps

April 1966

NPS Archive
1966
Ferrell, B.

The
F2
S

SCOPE

A study of statutes, regulations, and enforcement means used in counterinsurgency operations for the control of resources, with particular emphasis accorded to the methods used in Malaya and Viet Nam.

TABLE OF CONTENTS

CHAPTER		PAGE
I.	INTRODUCTION AND SCOPE	1
II.	PURPOSE AND OBJECTIVE	4
III.	GOVERNMENTAL CONTROL IN COUNTERINSURGENCY WARFARE	5
IV.	TRANSPORTATION CONTROL	8
	A. Land Transportation	8
	1. Malaya	9
	2. Viet Nam	17
	B. Water Transportation	20
	1. Viet Nam	21
	2. Malaya	27
V.	CONTROL OF FOOD	31
	A. Malaya	31
	B. Viet Nam	37
VI.	MEDICAL SUPPLIES	38
	A. Viet Nam	38
	B. Malaya	44
VII.	LAND AND BUILDINGS	45
VIII.	POLICE ENFORCEMENT: METHODS AND EFFECT	53
IX.	SUMMARY AND RECOMMENDATIONS	61
BIBLIOGRAPHY		74

CHAPTER I

INTRODUCTION AND SCOPE

Counterinsurgency warfare has been recognized by military leaders since the beginning of armed conflicts. It has been labeled with varying names, resistance movement, guerrilla warfare and now the present designation, but throughout history regardless of the title it has been a thorn in the commander's side. The tremendous effect of these movements in warfare were often not realized by the participants while they were occurring, however, historical critiques and memoirs reflect the tactical and strategical situation was influenced by irregular operations.

The experience of Germany in Russia during World War II shows the destructive and demoralizing affect of irregulars on a well organized army. The brillant Napolean as he moved at will against the armies of Europe had difficulty in coping with guerrillas in Spain and Russia.

Whereas insurgency and counterinsurgency is no stranger to military history it was not until post World War II days it came into its own as a means

of carrying out national policy under the banner of "wars of liberation."[1] While always another dimension of warfare, once occupying the back washes of the conflict, insurgency and counterinsurgency now commands the minds, abilities and attention of the world's leaders. The United States while not confining its interest to the counterinsurgency aspect of the conflict, as opposed to insurgency, has nevertheless as a result of world events found itself and its friends continually faced with this international problem.[2] Our involvement on this field of battle has grown from military and economic aid, to military advisers, to full scale commitment of large U.S. military forces.

The lessons of warfare require a high tuition, however, the reality we face is not peace or counterinsurgency war, but winning the battle our position

---

[1] Premier Krushchev's address of 6 Jan. 1961.

[2] "This pattern of subversion through civil wars, which is the latest effort at expansion by international communism, has naturally triggered a reaction on the part of the United States. The response to the international civil war is counterinsurgency. This response brings with it the involvement of American forces on the side of the established government."
Legal Aspects of Counterinsurgency, page 840.

in the world has called us to join. "Take the high ground" and "two up and one back" still have their place in military doctrine, however, the counter-insurgency effort involves not only the conventional military means, but a joint effort also covering the political, and economic spheres.[3]

[3]In a counterinsurgency war, it is a fundamental tenet that combat and pacification campaigns must be conducted simultaneously for the final victory to be lasting. In Viet Nam it would serve no purpose to destroy the insurgent main forces and their North Vietnamese allies in open battle while leaving the VC political infrastructure and guerrilla cadres untouched behind the line. "Bamboo Brigades" Marine Corps Gazette, March 1966 by Colonel Norman R. K. Stanford.

CHAPTER II

PURPOSE AND OBJECTIVE

This thesis covers the legal control of resources in a counterinsurgency war. The power of law as a useful implement against insurgents is not new, nor without success, in its employment as a factor in a counterinsurgency conflict. The promulgation, and enforcement of laws in controlling resources in counterinsurgency situations in Viet Nam, Malaya, Phillippines, Algeria and other countries furnish valuable experience in this field.

This study will cover various problems involved including what items should be regulated, areas and degrees of regulation, transportation restrictions and control, enforcement and punishment. This writing is not a country law study or an attempt to reveal what the present law is in any particular country, but an effort to examine some of the legal methods employed at times in counterinsurgency.

CHAPTER III

GOVERNMENTAL CONTROL IN COUNTERINSURGENCY WARFARE

The structure of government, national, regional and local, is the front line in counterinsurgency war. If this authority holds there can be no victory for the insurgents, thus the full brunt of terror, assassination, kidnapping and harrassment are brought to bear on these officials. Hence they face at least a two fold problem, resistance of the enemy and the governing of the people by the use of stringent controls made necessary by the unstable situation.

This unusual situation demands, sooner or later, the establishment of an emergency government.[4] Neither peace time governmental procedures nor the traditional war powers of the past satisfactorily meet the needs of this internal problem, often aggravated by the aid and covert assistance of an external power. As the threat grows more power is vested in the executive and less rights are enjoyed by the people. The continued support of the government by the people

---

[4]See generally Kelly & Pelletier, Theories of Emergency Government, 11 S.D.L. Rev. 42 (1966).

being essential the leaders must make the reasons clear why such laws are necessary, the ultimate benefits and objectives to be derived therefrom, and the assurance that restrictions on the rights of the population will be lifted as soon as the threat is eliminated. The more stringent the regulations the greater the need the government execute them in a reasonable manner.

The required laws cover almost every detail and aspect of the lives of its citizens. One area essential to emergency government in counterinsurgency is population control.[5] Another area is the control of resources which we are dealing with here. The control of population and resources must be coordinated and supplement each other. Although many areas in these fields will overlap and the dividing line is seldom clear each is a vital ingredient in counterinsurgency and must be successfully met if victory is to be ours. Thus to meet and understand the problem we must orient our thinking away from the usual concept of democratic government and recognize that

---

[5]See Kelly & Pelletier, Legal Control of Populations in Subversive Warfare, 5 Va. J. Int'l L. 174 (1965).

the troubled nation faces a grave and serious situation which not only justifies emergency power, but demands it.

CHAPTER IV

TRANSPORTATION CONTROL

Transportation being the resource which moves other resources from the point of production or supply to the point of need; its regulation is essential and one of the first steps in an effective control program. While a complete shut down of movement among the people would go a long way in depriving the insurgents of needed material, it would also bring the economy and commerce of the nation to a grinding halt and thus defeat its purpose. Hence a complete halt in transportation is not feasible, therefore laws must be promulgated and enforced which insures the continued functioning of the economy which at the same time regulates and controls what is moved, where it is moved, when it is moved, how it is moved, and who moves it.

The control of transportation covers two broad avenues of movement -- land and water.

A. Land Transportation.

The control of land transportation involves the use of roads, trails and railroads and the means of

conveyances used on these thoroughfares. The more sophisticated the mode of conveyance the easier it is to regulate i.e. check points, bills of lading, and the recording and accounting for times and distances are relatively simple and effective means of control for trucks and trains when compared to the regulation of thousands of peasants moving about the country on foot, bicycle, and carts either man or animal drawn.

The British experience in Malaya and the means being used in the Republic of Viet Nam furnish examples of this type control.

1. Malaya

The regulatory control of resources do not fit within clearly defined functional areas and may overlap into other fields as occurred in the emergency regulations of Malaya. The control of transportation and food dovetail and are inseparable in an effective counterinsurgent campaign.

"Food restricted" and "food prohibited" areas were established in Malaya. A "food prohibited area" meant any area declared to be a food prohibited area

under paragraph (8)[6] of the emergency regulations.[7] A "food restricted area" means any area declared to be a food restricted area under paragraph (2)[8] of this regulation. Certain items were declared to be a "restricted article" including padi, rice, rice products, flour, flour products, tapioca, cereals, oil, sugar, salt, concentrated foods, tinned foods, cooked food, dried fish, paper or any material or instrument or part thereof for printing, typewriting or duplicating words or objects in visible form,

---

[6]Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya.

[7]"(8) The Mentri Besar in a State & the Resident Commissioner in a Settlement may, if he considers it in the public interest so to do, by order declare any area which has been declared to be a controlled area in accordance with the provisions of Regulation 17FA of these regulations (other than the residential part of any such controlled area) in the State or Settlement not being a food restricted area to be a food prohibited area and shall designate the boundaries of any such area."

[8]"(2) The Mentri Besar in a State and the Resident Commissioner in a Settlement may, if he considers it in the public interest so to do, by order declare any area in the State or Settlement to be a food restricted area and shall cause the boundaries of any such area to be demarcated or designated in such manner as the Mentri Besar or the Resident Commissioner as the case may be, thinks fit."

drugs, medicines and other medical supplies, torch batteries, cloth and canvas.

After defining areas of control and restricted articles it was made an offense for any person to bring into or take away from any food restricted area any restricted article or any food stuff whatsoever, whether cooked or otherwise, with a penalty, on conviction, of a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three years or to both fine and imprisonment.[9] The possession of any restricted article in a food prohibited area was also a violation of the regulations and punishable by fine not exceeding five thousand dollars and imprisonment not to exceed five years or both such fine and imprisonment.[10] In order for life to go on certain exceptions and conditions were

---

[9]Paragraph (5) Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya.

[10]Paragraph (9) Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya.

written into the regulations.[11]

The use of vehicles were also controlled by regulations which provided that,

> "any person who between the hours of seven o'clock in the evening and six o'clock of the next following morning transports by any vehicle outside any Municipality, Town Board area, Town Council area or gazetted village any restricted article or any food stuff or any footwear or clothing shall be guilty of an offense against these regulations."

However, these provisions did not apply to fresh meat, fresh fish, shell fish, prawns, crabs, fresh vegetables, fresh fruit, live poultry or eggs, or to footwear or clothing when worn on the person or

---

[11] "(6) The provisions of paragraphs (5) and (9) of this Regulation shall not apply to--

(a) any restricted article or foodstuff loaded on any vehicle and consigned to or from a shop in a food restricted area, or in transit through a food restricted area or a food prohibited area;

(b) any article of food in liquid form which may from time to time be approved by the District Officer in respect of all persons or classes of persons entering or leaving a food restricted area or food prohibited area;

(c) any restricted article or foodstuff brought into or removed from a food restricted or a food prohibited area with the permission of the District Officer or any person authorized by him in that behalf. Such permission may be granted either to particular persons or to a class of persons and may contain such conditions and restrictions as the District Officer or the person authorized by him may deem fit to impose; and

(d) any footwear or clothing worn on the person or bona fide personal luggage.

conveyed as bona fide personal baggage.[12]

The District Officer or an Assistant Controller of Supplies could by order prohibit absolute or except on such conditions and by any means of transport, public or otherwise, and during such hours as he specified, the movement of any restricted article or of any foodstuff on any public or private road within his jurisdiction.[13]

The regulation covering the movement of restricted articles by road during the day, six o'clock in the morning to seven o'clock in the evening, required them to be covered by a tarpaulin securely fastened down.[14]

The use of a manifest could be required by the appropriate official.

> "The Mentri Besar in a State and the Resident Commissioner in a settlement or any officer appointed by him in writing in that behalf may by order require that the drivers of all vehicles transporting any restricted article or any foodstuff on such roads as shall be specified in such order shall carry a manifest in such form as he may prescribe, showing the nature

---

[12]Para. 12, Emer. Reg. Fed. of Malaya.

[13]Para. 13, Emer. Reg. Fed. of Malaya.

[14]Para. (14), Emer. Reg. Fed. of Malaya.

and quantity of such restricted articles or foodstuffs and their destination.[15]

The responsibility of enforcing these regulations was placed on the police officers and home guard and when authorized by the officer-in-charge of the police district they had the authority to--[16]

> "(a) stop any vehicle and require the driver or other person in charge thereof to declare whether any restricted article or any foodstuff is being carried therein, and to give such information as such officer or guard may consider necessary, and, if not satisfied with any declaration made in answer to such request, search said vehicle;
>
> (b) require the driver or the person in charge of such vehicle in which any restricted article or any foodstuff is being carried to comply with such directions as such officer or guard may consider necessary to insure that such article is not used for an unlawful purpose or that such article reaches the place for which it is intended;
>
> (c) detain any restricted article or any foodstuff in any such vehicle for such time as may be necessary to insure that such article is not used for an unlawful purpose;
>
> (d) seize any restricted article or any foodstuff in respect of which he suspects that an offense under this Regulation has been committed or was attempted or intended to be committed."

Items seized under the authority of paragraph (16) were handled as directed in paragraph (17).[17]

---

[15]Para. (15), Emer. Reg. Fed. of Malaya.

[16]Para. (16), Emer. Reg. Fed. of Malaya.

[17]Para. (17), Emer. Reg. Fed. of Malaya.

This regulation stated where any restricted article or article of foodstuff had been seized under the provisions of paragraph (16) then--

> "(a) if, within four weeks of such seizure, no proceedings are instituted against any person for an offense in relation to such restricted article or other foodstuff they shall be restored to the person from whom they were seized if he can be found and, if not, shall be disposed of as may be directed by a Magistrate;
>
> (b) if, within four weeks of such seizure, such proceedings are instituted against any person, such restricted article or other foodstuff may be forfeited or otherwise disposed of in such manner as the Court may direct:
>
> Provided that if such restricted article or other foodstuff is of a perishable nature and likely to decay it may be disposed of forthwith by the officer who has seized them, and any proceeds of such sale shall be dealt with in the manner prescribed in this Regulation for the disposal of a restricted article or other foodstuff."

The regulations not only prohibited the transportation of certain items, established procedures, and granted authority for their enforcement, they also required the driver or person in charge to give truthful information when questioned about his cargo.[18] The owner of a vehicle even though not

---

[18]"(18) Any person who, in answer to any request made in pursuance of paragraph (16) of this Regulation, makes any declaration or gives any information which is fake, or is not in possession of a lorry manifest where such manifest has been ordered in

involved in the violation of the regulation stood to loose his vehicle under this paragraph if he were not careful to who he lent it.

The route and stops of the vehicle was covered in paragraph (19)[19] which stated the driver or person in charge of any vehicle carrying any restricted article or foodstuff, who, unless obligated by something over which he had no control or unless he was required so to do by a police officer or a home guard--

> "(a) stops the vehicle outside the limits of a municipality, a town board, a local council area or a gazetted village other than at a place to which any goods in the vehicle have been consigned or at which they are intended to be delivered; or
>
> (b) deviates from the route normally followed in reaching the place to which any goods in the vehicle have been consigned or at which they are intended to be delivered; or
>
> (c) unloads any restricted article or foodstuff or permits any such article or foodstuff to be deposited at any place other than

---

[18] accordance with the provisions of paragraph (15) of this Regulation shall be guilty of an offense against these Regulations, and if the false declaration is with respect to any restricted article carried in any vehicle, such article and such vehicle shall be liable to seizure and shall, on conviction of such person, in addition to any other penalty, be forfeited whether or not such person is or is not the owner thereof."

[19] Para. (19), Emer. Reg. Fed. of Malaya.

the place to which it has been consigned or at which it was intended to be delivered shall be guilty of an offense against these Regulations."

The Federation of Malaya also imposed controls and regulations for those using the railroads.[20] Authority was given to any police officer, and any Guard, Under-Guard or Ticket Collector appointed and employed under the provisions of sub-section (3) of section 3 of the Railway Ordinance, 1948, to--

> "(a) open and examine any parcel or package in the possession of any passenger on any train if he has reason to believe that such parcel or package contain any restricted article which he suspects is intended to be made available to any person who intends, or is about, to act or has recently acted, in a manner prejudicial to the public safety or the maintenance of public order, and if on examination he finds that such parcel or package contains any restricted article he may detain such parcel or package until such passenger reaches his designation; and
>
> (b) without warrant, arrest any passenger on a train who throws or is about to throw from the train any package or parcel which he suspects contains any restricted article."

2. Viet Nam

The Republic of Viet Nam has imposed various laws in regard to land travel in an effort to halt the flow of many items into the hands of the Viet

---

[20]Para. 20, Emer. Reg. Fed. of Malaya.

Cong. These laws approach the problem from two directions i.e. (1) regulations aimed at the means of conveyance and (2) aimed at the control of the items.

On 3 September 1962 all cargo trucks and general transportation trucks were forbidden to travel at night from 1900 hours until 0600 hours the following day in prescribed areas.[21]

The use of the highways were further restricted on 10 November 1962 by an order[22] which prohibited the transportation at any time of paddy, ordinary rice, glutinous rice and rice brisures from Saigon to Quang Duc, Darlac, Pleiku, Kontum and Phu Bon provinces via National Highway No. 13, Interprovincial Road No. 13, and National Highway No. 14.

The foregoing orders served to tighten controls imposed as far back as December, 1953,[23] and January 1952.[24]

---

[21]Republic of Viet Nam Order No. 62/219-ND/CC dated 3 September 1962.

[22]Republic of Viet Nam Order No. 62/274-ND/CC dated 10 November 1962.

[23]Republic of Viet Nam Order No. 896-Cab/DN dated 16 December 1953.

[24]Republic of Viet Nam Order No. 57-Cab/SG dated 26 January 1952.

Order No. 57 dated 26 January 1952, initiated the control of goods and transportation in the Republic of Viet Nam. Article 2 of the order classified certain items as useful for military purposes.[25] In order to transport any item included on the military use list a special transportation permit was required.

Special transportation permits could be issued by Mayors, Deputy Chiefs of Districts, District Chiefs or Delegates at the points of departure after having considered the request endorsed by local military authorities of the applicable areas. The permits must disclose the routes on which the materials were to be transported and the time required.

---

[25]Materials listed as useful for military purposes included: Weapons, ammunition, explosives and substitute items, charges and gun powder; Electrical equipment, radios, batteries and electrical chests; Chemical agents used in industry; Various types of motors and industrial machines; Optical instruments, cameras, movie projectors and slides (including picture films); Typewriters, printing machines, types, ink and stencils; Medical equipment, surgical equipment and pharmaceutical products; Metals containing iron or no iron under various forms; Metal wire or cable; Fuel (gasoline, kerosene, diesel, oil fuel) and lubricants; and Oxygen and acetylene (burning gas).

The permits expired after the time shown.

The permits must be presented to the owners or consignors personally before the materials or supplies were loaded for transportation. They were then required to be attached to the supplies and presented when requested by officials or control personnel. The content of the shipment as to nature, quality and quantity had to conform with the information shown on the permit. After the supplies reached their destination and the permits checked they were returned immediately to the issuing officials.

As the war intensified other items were added to the list of military use supplies covered by these regulations.[26]

B. Water Transportation

The control of traffic on inland and coastal

---

[26]Republic of Viet Nam Order No. 236-BNV/NC/ND dated 29 October 1955; Republic of Viet Nam Order No. 513-BNV/NC/ND dated 28 May 1961; Republic of Viet Nam Order No. 1234-BNV/CH/ND dated 10 September 1960; Republic of Viet Nam Order No. 622-BNV/NC/ND dated 24 October 1962; Republic of Viet Nam Order No. 1378-BNV/NC/ND dated 20 October 1960; and Republic of Viet Nam Order No. 738-BNV/NC/ND dated 18 June 1964.

waterways is vital in a counterinsurgency operation. The use of boats, usually small, is often the most common means of travel and transportation available in developing nations where counterinsurgency operations are likely to be employed. Today in Viet Nam literally thousands of vessels ranging from small boats to larger sailing and motor launches ply the rivers and coastal waters. The junk patrol spot checks these crafts in an effort to detect the infiltration of Viet Cong supplies, but to fully determine the innocent fisherman and sailor from the enemy is a job the proportions of which defy the imagination of one who has never witnessed the untold number of boats in these waters. However, the need to control this water transportation has been recognized by the Republic of Viet Nam and laws promulgated setting forth the authority to do so.

1. Republic of Viet Nam

The control on waterways is vested in the Viet Namese Navy and the custom officials, with the Navy having the same jurisdiction as the Custom service.[27] These services within 20 Kilometers from

---

[27]Republic of Viet Nam Order #896 dated 16 December 1953.

the shore of the ports or bays and on rivers and canals may perform the following acts:

"Order all merchant ships, fishing boats or sport boats regardless of their tonnage, to stop for control and search . . . .

Search all merchant ships, fishing boats or sport boats.

Request them to produce the manifests or ship log books and check to see if they comply with the supplies loaded in the ships.

Request them to produce special permits for the materials and supplies whose transportation is prescribed in this Order and if necessary, the permits for transportation free of taxes and check to see if they comply with the materials or supplies loaded in the ships.

Endorse the papers presented (manifests, ship log books, special permits, permits for transportation free of taxes) and make reports on violations noted in compliance with the provisions in Articles 11 and 12 below.

Order all merchant ships, fishing boats or sport boats to stop at a designated port for control and search, if required and when decisions can only be made by the above officials.

If the captains or ship owners failed to produce papers or make a search in order to check and certify the fraud, control officials can go ahead to do their duties. The captains or the ship owners and the crew members, if any, who had refused will be subject to a VN $5,000 fine each. If there will be a relapse within a period of five years, this amount of fine will be augmented to VN $10,000.

In the cases mentioned in the above two paragraphs and if there will be any violations of the other articles of this Order, the Court will have to order the confiscation of merchant ships, fishing boats or sport boats even though they are not a relapse.

Article 10: The control of merchandise at the destination will be done by customs officials, or if possible by the administrative authorities mentioned in paragraph 5 in

accordance with the following conditions:

1. The transportation by ships having the tonnage of over 100 tons must be bound for the cities where the Customs officer or Stations are established to control the coastal transportation or the import and export.

After having checked the special permits with the supplies presented customs officials will write endorsements on the above permits and return them to the individuals concerned to be submitted to the authorities at the destination.

2. The transportation by ships having the tonnage under 100 tons can be bound for the cities where either Customs Officer or stations are established or not:

a. If the supplies are bound for the cities where Customs Officer or stations are established, Custom Officials will check special permits to see if they comply with the supplies, and if necessary, check the supplies with the amounts indicated in the ship log books, endorse these papers return them to the individuals concerned to be presented at the destination.

b. If the supplies are bound for the cities where Customs Officer or stations are not established, the competent administrative officials at the destination will check the supplies. These officials must check to see if the supplies comply with the special permits and with the amounts indicated in the ship log books, endorse the special permit and immediately return them to the issuing agencies.

3. In every case, the administrative officials at the destination of the supplies must notify the local military officials of the arrival of the applicable supplies and submit a copy of the report on violation."[28]

In addition to the above regulation another

---

[28]Republic of Viet Nam Order No. 896-Cab/DN dated 16 December 1953.

order affecting convoys was issued.[29] This measure was prescribed for ships and boats sailing on Nam-Saigon and Bac Lieu-Saigon waterways. Areas were designated where the convoys were to assemble and requirements for admittance were established i.e. motorized cargo ships and boats having a capacity from 50 tons or over, and tug boats from 60 HP or over and towed boats having a capacity from 50 tons or over.

Ships and boats eligible for admittance to the convoys had to submit a request in triplicate indicating their name, number of river boats, capacity, power of the motor, place of departure, destination, type of freight, tonnage, names and identity of the crew members. Registration papers for the ships and boats had to be presented and these were registered in the convoy log book.

The Civilian Management and Control Agencies received the requests for admittance to the convoys, checked the ship's papers, prepared a roster of ships and boats to be admitted and coordinated with

---

[29]Republic of Viet Nam Order No. 60/249-ND/CC dated 27 October 1960.

the Military Management and Control Agency if necessary.

Each of the convoys consisted of a number of ships and boats sailing on a designated route and on a scheduled time. The convoy would be placed under the control of the convoy commander who was assisted by a representative of the ship and boat owners. A tug boat could not tow more than ten (10) boats or barges and this number could be reduced according to the power of the tug boat and the flow of the stream.

The convoys were divided into two classes, express and slow convoys. The express convoy consisted of cargo ships and motorized boats without towing other boats. The slow convoy consisted of tug boats towing a number of other boats. There were also two types of convoys: the "periodic" convoy which made a fixed number of trips on each waterway and the "special" convoy formed to fill emergency requirements.

The commander is responsible for the control of the entire convoy from the departing point to the terminal. He must make sure the convoy sails on the designated route and maintains the time schedule.

Other responsibilities of the commander include preventing other ships or boats from joining without orders from the Management and Control Agency. In unexpected circumstances during the voyage such as engine troubles or collision he may apply the measures required such as transferring cargo from one boat to another or order one ship to tow another and leave them at the nearest port to join a slow convoy.

The vessals in the convoy must follow orders and instructions given at the time of departure and subject to change during the trip. The following are standing orders for each convoy:

> "Prohibit any other boats or sampans to join the convoy even to procure food."
> "Do not leave any towed boats on the waterway, if not so authorized by the commander of the convoy."
> "Do not tow boats parallel to each other on small canals and streams."
> "Prohibit two motorized ships to sail parallel to each other, unless when one ship is not operative and as so indicated by the commander of the convoy for other special cases."
> "Do not pass other ships, unless so indicated by the commander of the convoy."
> "Do not leave the convoy to reach the port first when the convoy is nearing the destination."
> "By the time of departure, any ships or boats which are not yet ready will not be permitted to join the convoy."[30]

---

[30]Republic of Viet Nam Order No. 60/249-ND/CC dated 27 October 1960.

Punishment for infractions of river transportation control regulations is imposed by a Sub-Committee headed by the Director of Navigation and Hydraulic Agriculture or his representative and attended by a representative of the Central Military and Civilian Management and Control Agencies. The Sub-Committee may forbid the ship and boat owners from joining another convoy for a period from 15 days to one year and could admonish crew members and withdraw chauffeur's or mechanic's licenses for a period from 15 days to one year. The owners and crewmen are authorized to plead for themselves before the Sub-Committee.

2. Malaya

The authorities in Malaya recognized the necessity of controlling movements on the inland waterways and adjoining coastal areas and applied laws and regulations similar to the ones existing in Viet Nam. However, for the most part the officials in Malaya were granted more unrestricted authority than their counter parts in the Republic of Viet Nam. The District Officer or an Assistant Controller of Supplies, for example, had the power to issue an order which would prohibit absolutely or except on such

conditions and by any means of transport public or otherwise, and during such hours as he shall specify, the movement of any restricted article or of any food stuff on any public or private road and river, stream, channel or other waterway whatsoever, or on or within any territorial waters within his jurisdiction.[31]

Authority was also placed in any Officer in Charge of a Police District or any person duly authorized by any such Officer to order, or by giving directions, or in any manner, regulate, restrict, control or prohibit the use of any road or waterway by any person or any vehicle or close any road or waterway.[32]

Certain officials were vested with the power to board and search vessels.

> "30A. (1) Without prejudice to the provisions of any other written law any police officer, any officer of the Customs Department or any officer of the Immigration Department may, when on duty and on the authority of a police officer not below the rank of Inspector, or of an officer of the Customs Department not

---

[31]Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, paragraph 17EA(13).

[32]Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, paragraph 39.

below the rank of Junior Customs officer or of an officer of the Immigration Department not below the rank of Deputy Assistant Controller of Immigration, as the case may be, stop, board and search any vessel not being or having the status of a ship of war and may remain on board so long as such vessel remains within the waters of the Federation.

(2) Any police officer, any officer of the Customs Department or any officer of the Immigration Department searching a vessel under the provisions of paragraph (1) of this regulation may seize any evidence found therein of the commission of any offense under the provisions of any written law for the time being in force.

(3) The master or person in charge of a vessel who fails to stop such vessel when required so to do under this Regulation and any person resisting or hindering or in any way obstructing any police officer or officer of the Customs Department or of the Immigration Department searching a vessel or seizing any evidence under this regulation shall be guilty of an offense against these Regulations."[33]

All the regulations affecting water transportation in Malaya are not negative. A Chief Police Officer can require any space or accommodation in any vessel plying within the Federation or from the Federation to the Colony to be placed at his disposal and may give such directions as appear to him to be necessary or expedient in connection with such requirement.[34]

---

[33]Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, paragraph 30A.

[34]Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, paragraph 34(1)(a).

If the person in charge of such vessel did not comply with any of the directions given him under this regulation he was guilty of a violation thereof.[35]

The owner or master of such vessels were given certain protection in that no person deprived of an accommodation had any right of action for compensation or damages as a result of the exercise of this authority.[36]

The Marine Superintendent, if he deems it necessary, may authorize the master of any vessel to carry passengers in the vessel to or from any port in a Malay State subject to such conditions as prescribed by the Marine Superintendent and the master was exempt from any restriction or penalty laid down by any law in force in respect of the carriage of passengers. However, this exemption does not apply to the operation of any law outside the territorial waters of the Malay States.[37]

---

[35]Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, paragraph 34(1)(b).

[36]Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, paragraph 34(1)(c).

[37]Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, paragraph 34(2).

CHAPTER V

CONTROL OF FOOD

Food is the most vital natural resource that must be controlled and regulated to keep it from falling into the hands of the insurgents. One of the characteristics of this type warfare is the ability of the insurgent troops to live off the land and not be dependent or burdened with a sophisticated supply and logistic system.

A. Malaya

Some regulations used in Malaya to control food were covered in the section on transportation, however, the control of food covers a broader area and will now be discussed.[38]

A food prohibited area was defined as any area declared to be a food prohibited area by the Mentri Besar in a State and the Resident Commissioner in a Settlement if he considered it in the public interest

---

[38]Regulations Made Under The Emergency Regulations Ordinance, 1958, Federation of Malaya, ER 17EA(1).

so to do.[39] However, to be declared a food prohibited area the zone had to lay within a controlled area,[40] however, this presented no problem or delay as these same officials had the authority to declare an area controlled.

A food restricted area was declared by the Mentri Besar in a State and the Resident Commissioner in a Settlement who designated the boundaries as he thought fit.

"Foodstuff" meant (a) any species of animal, whether alive or dead which is ordinarily used for human food; (b) any substance or commodity which is ordinarily used for human food, or in the preparation of human food; and (c) any substance or commodity which is ordinarily used for feeding animals, including rice bran containing more than ten per centum of whole or broken grain rice.

---

[39]Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, ER 17EA(8).

[40]"17FA.(1) The Mentri Besar in a Malay State and the Resident commissioner in a Settlement may, if he considers it expedient in the public interest so to do, make an order, which shall be published in the Gazette, declaring any area within the State or Settlement to be a controlled area; and in the same or any subsequent order may declare any specified part of such controlled area to be a residential part.

In food restricted areas the owner or person in charge of a shop was not allowed to keep any stock of restricted articles[41] in his shop or elsewhere in quantities exceeding those necessary for his normal trade or business. A record had to be kept in such manner and containing such information as the District Officer may direct of the stocks of restricted articles in his possession, and of all quantities of all purchases of restricted articles made by him for the purpose of his trade or business, as well as a record of daily sales of any restricted article. These records were subject to inspection on demand of any police officer.

The shop owner was prohibited from selling any restricted article to any person not in possession of a registration card issued to him under the

---

[41]"[R]estricted article" means any of the following articles, that is to say, padi, rice, rice products, flour, flour products, tapioca, cereals, oil, sugar, salt, concentrated foods, tinned foods, cooked food, dried fish, paper or any material or instrument or part thereof for printing, typewriting or duplicating words or objects in visible form, drugs, medicines and other medical supplies, torch batteries, cloth and canvas." Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, ER 17EA(1).

Emergency Regulation and who did not present it at the time of the sale.

Shop owners could be required to have licenses in food restricted areas.[42]

The individual was prohibited from bringing into or taking away from any food restricted area any restricted article or any food stuff whatsoever, whether cooked or otherwise and if convicted subject to criminal penalities.[43] If an individual was found in possession of any restricted article or any food-stuff whatsoever, whether cooked or otherwise in a food prohibited area was in violation of these regulations and subject to heavier penalities than

---

[42]"(4) The Mentri Besar in a State and the Resident Commissioner in a Settlement may by order prohibit the owners or persons in charge of all or any shops in a food restricted area from carrying on any business or trade in any restricted article unless such owner or person is in possession of a license issued for the purpose of this regulation by, and at the absolute discretion of, the District Officer and except in accordance with any condition contained in such license, and any person who fails to comply with such order or with any conditions contained in the license shall be guilty of an offense against these regulations."

[43]A fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment. Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, ER 17EA(5).

those in the food restricted areas.[44]

In order for life to go on in the country if was necessary for certain exceptions to be made for essential movement within these areas and this was provided for in the regulations.[45]

The District Officer if he considered it expedient to do so could by order direct any shop[46] to

---

[44]A fine not exceeding five thousand dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment. Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, ER 17EA(9).

[45]"(6) The provisions of paragraphs (5)(food restricted areas) and (9)(food prohibited areas) of this Regulation shall not apply to--

(a) any restricted article or food stuff loaded on any vehicle and consigned to or from a shop in a food restricted area, or in transit through a food restricted area or a food prohibited area;

(b) any article of food in liquid form which may from time to time be approved by the District Officer in respect of all persons or classes of persons entering or leaving a food restricted area or food prohibited area;

(c) any restricted article or foodstuff brought into or removed from a food restricted or a food prohibited area with the permission of the District Officer or any person authorized by him in that behalf. Such permission may be granted either to particular persons or to a class of persons and may contain such conditions and restrictions as the District Officer or the person authorized by him may deem fit to impose; and

(d) any foot wear or clothing worn on the person or bona fide personal luggage."

[46]"In this paragraph 'shop' means any building,

close or halt all trade or business in any restricted article in any shop or allow such transactions subject to restrictions or conditions he specified.[47]

The Mentri Besar in a State and the Resident Commissioner in a Settlement or any officer appointed

---

[46]stall, structure or other premises or part thereof, where any wholesale or retail trade or business is carried on." Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, ER 17EA(10)(ii).

[47]Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, ER 17EA(10).

"(11)(i) The Mentri Besar in a State and the Resident Commissioner in a Settlement or any officer appointed by him in writing in that behalf may by order--

(a) declare a nation of rice or of any specified foodstuff in such area and for such period as shall be specified; and

(b) declare the maximum quantity of rice or of any specified foodstuff which may at any time be in the possession of any person other than a trader in rice or any such foodstuff; and

(c) declare the maximum quantities which wholesale and retail shops dealing in rice or any other specified foodstuff may hold.

(ii) When any nation has been declared under sub-paragraph (i) of paragraph (11) of this Regulation it shall be an offense these Regulations for any person to sell or deliver any rice or specified foodstuff in excess of the declared nation.

(iii) Any person who contravenes the provisions of sub-paragraphs (i)(b) or (i)(c) of this paragraph shall, on conviction, be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment."

by him in writing could issue orders establishing maximum quanties of restricted articles that individuals could possess.

B. Viet Nam

In Decree-Law No. 18/64 dated 7 August 1964 as part of a State of Emergency action the first measure listed was, "Control the distribution of food."

Some of the steps taken by the Republic of Viet Nam in addition to the transportation controls covered earlier were[48]

(1) Control of crops through listing by the population of the quantity produced and the reserves;

(2) Storing of the excess crops;

(3) Activation of cooperatives whose transactions are controlled by authorities;

(4) Determination of rice rations;

(5) Control around cities, garrison towns and fertile areas; and

(6) Search and destroy Viet Cong food stores and production installations.

---

[48]Resume on Resources Control in the Republic of Viet Nam prepared by Headquarters, United States Military Assistance Command, Viet Nam, dated 21 January 1965.

CHAPTER VI

MEDICAL SUPPLIES

The control of medical supplies ranks second only to food in importance in a counterinsurgency situation.

A. Viet Nam

The Republic of Viet Nam has made extensive regulations in regard to medical and pharmaceutical supplies and their control.

Military Use Pharmaceutical Products, Medical Equipment and Surgical Instruments

As part of the control program the Republic of Viet Nam placed certain items on a military use list[49] i.e. "antibiotics and sulfamides, with certain exceptions,[50] plasma and serums for perfusion (having

---

[49]Republic of Viet Nam Order #3495-BYT/PC/ND dated 18 July 1962 of the Department of Interior and Public Health prescribing military use European pharmaceutical products, medical equipment and surgical instruments.

[50]Antibiotics and sulfamides not placed under the control regulations were: (a) Sulfathiazole; (b) Sulfaguanidine; (c) Chloramphenical under the forms of: capsules, tablets or sugar coated pilk of 0.100 gr. - syrup, oral solution, aromatized power w/less than 2 grs. of chloramphenical for each bottle

chloride dextrose and glucose) to include other types such as syptoran, peristor, etc., . . ., antitetoric serums (however, antitetanic serum type 1500 U.I. are not placed under the control regulations); hemostatics (except for those which are used for oral administration); local, general anesthetics; antimalaria products (except for those which are used for oral administration); all medical and surgical equipment to include surgical instruments such as clamps, suture materials etc., . . ., with exceptions,[51] and dental equipment."

Control measures were put in force regulating the importation, sale and use of the listed items.[52]

---

[50]or box; (d) Medicine for external use, vaginal treatment of the ears, eyes and noses; (e) Medicine for oral administration having Neomjar or Dihydrostreptomycin for dysentery and diarrhea such as: Streptomagma, Neopectin, Entero-piristina, Diamycin etc.

[51]Examples of excluded equipment are thermometer, urinal, connula, vaginal, bed pan, hot water bottle, scales.

[52]Republic of Viet Nam Department of Public Health Order #3220-BYT/PC/ND dated 5 August 1964 temporarily prescribing the control of the import, purchase, sale and use of military use medical equipment and surgical equipment.

Prior to the entry into the country import requests indicating the types and amounts of equipment had to be submitted and checked by the Ministry of Public Health and then submitted to the Ministry of Economy. Upon the arrival of the shipment, importers had to submit the customs declaration to the Ministry of Public Health for control prior to movement from the warehouses.

The persons allowed to purchase and sell medical equipment and surgical instruments was limited to those holding licenses for such purpose and pharmacists owning drugstores.

In addition to the above which were allowed to deal in medical supplies and equipment certain professional medical persons could, of course, obtain the items. Surgeons, dentists and veterinarins to obtain the needed supplies had to write their names and addresses on the forms of the bills. The amounts of equipment purchased had to be used within their consultation rooms or private hospitals and could not be resold. Midwives and owners of a private and legal maternity hospital could obtain medical supplies by following prescribed regulations.[53]

---

[53]The private maternity hospital managed by a

Medical students, dentistery students, midwifery students and public health students were allowed to purchase the equipment needed for their studies with a permit from the Dean of the School.

The prescriptions and permits must contain the names and addresses of the recipients, the maternity hospital or the enterprises. The sellers had to retain the required papers for a minimum of three years.

The importers and retailers were required to keep record books of the receipt and issuance of the supplies. Entries in the book were required to show the receipt and issuance of the military use medical equipment and surgical instruments according to the order of time and there could be no erasurers, additions, stricken or blank lines and a cross line had to be drawn at the end of each month. In regard to the sale of supplies in addition to the details indicated in the prescriptions, further information

---

[53]doctor could obtain supplies by his writing a prescription. Private maternity hospitals, not managed by a doctor had to submit a request to the Sanitation Service (if located in the Capital) or to the Local Public Health Service (if located in Provinces).

required was the names, addresses and identity of the bearers of the prescription or permits.

The above records had to be submitted to the competent control officials when requested.

As a further method of control the importers and retailers had to prepare a list by the 5th day of the month of the military use medical equipment and surgical instruments received, issued and in stock during the last month.[54] These lists had to be made in triplicate and submitted to the Sanitation Service or Local Public Health Service who forwarded two copies to the Ministry of Public Health.

Another regulation was issued[55] dealing specifically with drugstores. Retail and wholesale drugstores were required to prepare a book and keep

---

[54]The list of medical and surgical equipment purchased and sold during the month had to show the date, type of equipment, quantity purchased, quantity sold, name of purchasers or suppliers, profession, and full name and identity of bearers of prescriptions or permits.

The list of medical equipment and surgical instruments in stock as of the 5th day of the month had to show the type of equipment, quantity in stock by the end of last month, quantity purchased during the month, total, quantity sold during the month and quantity in stock by the end of the month.

[55]Republic of Viet Nam Department of Public Health Order #3329-BYT/PC/ND dated 8 Oct 1962 prescribing the control of drug stores and control of

records on the receipt and issue of the items of military use European pharmaceutical products. This record book had to be numbered by pages and the Sanitation Service or Public Health Service certified the number of pages and stamped each page and initialed the first and last page.[56] Entries could not be erased, added, stricken or left with blank lines and a cross line must be drawn at the end of each day. The record books had to be presented to the competent control officials when requested.

Pharmacists, owners or managers of drugstores must also make an inventory list of military use European pharmaceutical products received and issued during the last month.[57]

---

[55]the receipt and issue of military use European pharmaceutical products.

[56]Entries in the book had to show the date; name and address of suppliers, doctors, and buyers; number and date of the bills and prescriptions; type of medicine; date received; date sold; and appropriate remarks.

[57]Four copies of this report are required; one copy to be forwarded to the Prefecture, local City Hall of Provincial Administrative Office and three copies submitted through the local Sanitation or Public Health Service to the Department of Public Health (Pharmaceutical Inspecting Section).

B. Malaya

The Regulations Made Under The Emergency Regulations Ordinance, 1948 of the Federation of Malaya do not specifically mention the control of drugs and medical equipment, however, the government possessed broad powers to regulate any supplies of value to the insurgents.

CHAPTER VII

LAND AND BUILDINGS

The control of land and buildings located thereon is one means of denying insurgents needed supplies and of isolating them from the populace. In this instance by the control of land is meant the use and occupation thereof by the populace and not control by military forces even though the legal control of real estate will affect the combat situation.

Malaya

In Malaya authority was given to certain officials[58] to size and occupy any building or other structure and any land pertaining thereto if reasonable cause existed to believe--

> "(a) [The land or building] belongs to or has been used by any person or persons who intend, or are about, to act or have recently acted, in a manner prejudicial to public safety or the maintenance of public order; or

---

[58]Those vested with authority to seize buildings and land were any police officer of or above the rank of sergeant, or any member of Her Majesty's Naval, Military or Air Forces or of any Local Forces established under any written law of or above the rank of Warrant Officer.

(b) [The land or building] belongs to or is occupied by any person who is harbouring or has harboured or whose servant or agent by whom he is in occupation is harbouring or has harboured any person or persons who intend, or are about, to act or have recently acted, in a manner prejudicial to the public safety or the maintenance of public order."[59]

The seizure of buildings under this regulation were to be reported as soon as practicable to the Mentri Besar or Resident Commissioner of the State or Settlement in which the structure was located and the official if satisfied that such building or structure had been used in the prohibited manner could order the forfeiture of the building and the land it was situated on and no compensation was payable as a result of such action. However, if the Mentri Besar or Resident Commissioner found the use of such property was without the knowledge of the owner he could remit or waive the forfeiture.[60] If the property was forfeited the appropriate entries

---

[59] Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, ER 35.

[60] Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, ER 32(2).

were made with the registering authority,[61] and titled vested in the Crown.

The Mentri Besar and the Resident Commissioner, as the case may be, also in addition to the authority to forfeit title also had the power to take possession of land or buildings if it appeared necessary or expedient so to do in the interests of public safety, or for the accommodation of any of Her Majesty's Naval, Military or Air Forces, or of any Local Forces or other security forces.[62] While

---

[61]"ER 32(4) Where under paragraph (2) of this Regulation any land comprised in any document of title is forfeited in any State, then--

(a) a copy of the order of forfeiture shall be served on the proper registering authority and an entry to the effect that the land has been forfeited shall be made by the proper registering authority upon the register document of title relating to such land; and

(b) the person in whose possession the issue document of title may be shall deliver up the same on demand to the proper registering authority for cancellation; and

(c) upon the cancellation of the existing document of title, a new document of title for any unforfeited part or parts of the land comprised in the cancelled document of title shall, upon payment of any necessary survey and other fees by the proprietor, be prepared and registered and the new issue document of title in respect of such unforfeited part or parts shall be issued to the person entitled thereto."

[62]Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, ER 35(1).

the land was in the possession of the government official he could use it as he felt necessary or expedient to do under certain prescribed regulations.[63]

To administer the taking of possession and give the owner a means of appeal Advisory Committees were established.[64] Any person who felt aggrieved as a result of having the possession of his property taken could within fourteen days object to the Advisory Committee. The Chairman of the Advisory Committee after receiving an objection would inform the person on whose behalf the possession of the land or building was taken and the Committee would consider the grounds put forward by both parties and make

---

[63]The extent of the use by the government was outlined as follows: ER 35(3)

"(a) may do, or authorize persons using the land or building as aforesaid to do, in relation to the land or building, anything any person having an interest in the land or building would be entitled to do by virtue of that interest, and

(b) may by order provide for prohibiting or restricting the exercise of rights of way over the land or building, and of other rights relating thereto which are enjoyed by any person, whether by virtue of an interest in land or otherwise."

[64]Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, ER 35(6).

recommendations to the High Commissioner. The High Commissioner would consider the recommendations of the Advisory Committee and give such directions thereon as he thought fit.[65]

In those cases where a structure was subject to forfeiture under the regulations, but for various reasons the seizure thereof was impractical the property could be destroyed.[66] Compensation was payable in the event of mistake and the structure was not subject to forfeiture.

Laws also were enacted to allow the destruction of unoccupied buildings in a controlled area.[67] The officer-in-charge of the Police District in which the building or structure was located in could order it destroyed if it was likely it would be used in

---

[65]Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, ER 35(9).

[66]Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, ER 37(1).

[67]A "Controlled Area" was established in Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, ER 17FA:

"(1) The Mentri Besar in a Maloy State and the Resident Commissioner in a Settlement may, if he considers it expedient in the public interest so to do, make an order, which shall be published in

a manner prejudicial to public safety and it was impractical to prevent such use any other way.[68]

Owners and occupants of land adjoining a public road could be ordered to clear away all under brush from their land up to a distance of fifty feet on either side of the roadway.[69]

---

[67] the Gazette, declaring any area within the State or Settlement to be a controlled area; and in the same or any subsequent order may declare any specified part of such controlled area to be a residential part.

(2) Every such order shall declare--

(a) that after the expiration of a period to be specified in the order (which shall not be less than seven days from the date thereof) and subject to any exemption for which provisions may be made by the same or by a subsequent order and to any conditions upon which such exemption may be granted, no person shall reside or continue to reside in any part of a controlled area other than a residential part;

(b) that between such hours or at such times as may be specified in the order and subject to any exemption for which provision may be made by the same or by a subsequent order and to any conditions upon which such exemption may be granted, no person shall be in any part of the controlled area other than a residential part."

[68] Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, ER 38.

[69] Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, ER 40.

Miscellaneous Military Use Supplies

The control of vital resources, i.e. transportation, food, medical supplies, and land have been discussed in detail, however, many other items have been labeled as military use supplies and placed under close scrutiny by the government involved. On 26 January 1952 the Republic of Viet Nam issued an order[70] which listed various items as useful for military purposes,[71] and imposed restrictions on the transportation and use of these supplies. As the war grew in intensity and area new orders have been issued revising and lengthening the list. On 10 September 1960 the Viet Namese government issued another order[72] listing specifically and in detail

---

[70]Republic of Viet Nam Order #57--Cab/SG dated 26 Jan. 1952.

[71]The following items were listed as useful for military purposes: Weapons, ammunition, explosives and substitute items, charges and gun powder; Electrical equipment, radios, batteries and electrical chests; Chemical agents used in industry; Various types of motors and industrial machines; Optical instruments, cameras, movie projectors and slides (inclusing picture films); Typewriters, printing machines, types, ink and stencils; Medical equipment, surgical equipment and pharmaceutical products; Metals containing iron or no iron under various forms; Metal wire or cable; Fuel (gasoline, kerosene, diesel, oil fuel) and lubricants; and Oxygen and acetylene (burning gas).

[72]Republic of Viet Nam Order No. 622-DNV/HC/ND dated 10 September 1960.

a long list of military use supplies,[73] to this list in the same year by another order[74] was added lather, milling machines, drilling machines, metal saws and planes. In 1961 scrap-iron and steel pipes of various kind were placed under nation-wide regulations[75] as was arsenic, arsenious anhydride, cyanide of potassium and cyanide of sodium.[76]

---

[73]Items of military use supply included: weapons and ammunitions, detonators, dynamites and all other commercial explosives, gun powder, ammonium nitrate, sodium nitrate, calcium nitrate, sodium chorate, potassium chlorate, chlorate of potash, chlorate of soda, perchlorate of ammonium, perchlorate of pottassium, perchlorate of potash, perchlorate of aocium, diphenylomine, centralite, other, nitrocellulose, nitroglycerine, magnessium, aluminium powder, berium chloride, mercury fulminate, benzene, chlorine, corlride of calcium, acetylene, liquid and compressed oxygen, blow pipe, sulphur, acetane, nitric acid or sulpharitric acid, sulphiric acid, hydrichloric acid, printing machine, ink and types, generators, dry cell batteries and storage cell batteries, radios, optical instruments, typewriters and stencils, cameras, movie projectors and films, radio receivers and transmitters, water pumps, outboard motors, boat engines, various types of motors, non-ferrous metals, metal wires, fuel and lubricants, pharmeutical products, medical and surgical equipment.

[74]Republic of Viet Nam Order No. 1378-BNV/NC/ND dated 20 October 1960.

[75]Republic of Viet Nam Order No. 236-BNV/NC/ND dated 7 April 1961.

[76]Republic of Viet Nam Order No. 513-BNV/NC/ND dated 5 September 1962.

CHAPTER VIII

POLICE ENFORCEMENT: METHODS AND EFFECT

The issuing of regulations and promulgation of laws to control natural resources is of dubious value in counterinsurgency situations unless enforced sufficiently to isolate the guerrillas from the population and in a manner that gains the respect of the people for law and order. The use of civilian police, military or paramilitary forces, or a combination thereof depends on the situation, background, and nature of the people involved.

The British while using all forces at their command kept the civilian police in the forefront of the counterinsurgent effort in Malaya. The utilization of civilian authority recognized and took advantage of the attitudes of the people toward military forces.

> "'Bad news, troops come,' used to be a saying in the Chinese villages in the early days of the communist uprising in Malaya. The British learned quickly, and sent policemen instead of soldiers. Their task was to establish, to maintain, and to extend the government writ. The army kept out of administrative tasks of this sort, except in the defense of the established authority."[77]

---

[77]Warner, Denis, "The Last Confucion, Viet Nam,

The use of military troops was not neglected when needed, however, it was recognized that a counter-insurgent campaign involves the proper employment of all the forces at the government's command.

> "British countermeasures were not restrictive to a military campaign. The entire responsibility for conducting counterguerrilla activities against the communists rested 'fairly and squarely with the civil government. The armed forces work(ed) in support of police, though all emergency activities (were) so interconnected that on occasions it (was) a little difficult to decide who (was) in support of whom.' This led one noted expert on Asian politics to comment that the British were waging socialized warfare against the MCP. The 'sociological' technique included resettlement, detention, repatriation, and rehabilitation."[78]

In considering the heavy reliance placed on the police it must be remembered the Malayan Police had always had a para-military role and had been used to suppress disorders in Perak in 1875, in Selangor and Surgei Ujong in 1876, Rembau (Negri Sembilan) in 1884, the Pahang rebellion of 1891-94 and Trengganu in 1927. The first local Military Force, the Malay

---

[77] Southeast Asia, and the West," (1964) page 26.

[78] Special Operations Research Office, "Casebook On Insurgency and Revoluntary Warfare, 23 Summary Accounts," (1962) page 77.

States Guides, organized in 1896 was raised, trained, and officered by the police and saw service in the First World War in the defense of Aden against the Turks. This force was reabsorbed into the Police after the war.[79]

The Malayan Police had experience in coping with endemic gang robberies, banditry and kidnapping for ransom carried out by Chinese gangs.

In comparing the British efforts and the Viet Nam conflict it must be remembered Malaya's counter-insurgency campaign was conducted in two phases: first under the direct control of the British protectors; and finally by the Federation with the aid of their former British Rulers. The young Nation of South Viet Nam faced a threat from its inception and an almost complete withdrawal of French assistance.

In the rural villages and hamlets of South Viet Nam there is no effective civilian police force. This has been brought about by the war.

> "After the Communists began their military offensive in late 1959, the government was compelled to turn increasingly to military counter-active measures. These elements in

---

[79]See generally E. H. Adkins, Jr., "The Police and Resources Control In Counter-Insurgency," (1964) page 119.

> the government's new response may be noted. First, the army has been put into action and has been transformed in the process from a conventional to an increasingly anti-guerrilla fighting force. In other words the government has acknowledged the inability of either the Self-Defense and Civil Guard forces or of a conventional army to cope with Communist insurgency. Second, the Self-Defense Corps and Civil Guard have been considerably strengthen, and additional militia forces, based on the hamlet, have been added to them as local defense organizations. Finally, Viet Nam society as a whole has undergone a change which can best be described as the militarization of the population. The public bureaucracy, particularly at the local levels, has been shaped into a military machine, and a massive effort is now underway to convert most of Viet Nam's hamlets into armed bastions, whose peasant occupants will defend themselves against the Communist's infestation of the surrounding country side."[60]

The military dominance in the police field is not only evident in the rural areas, but also in the cities.

> "The heads of the Police and Security Services and other high officials have, since 1956, always been military officers, but after 1959 military penetration of other positions, including provincial and district commands, proceeded rapidly. Even the Saigon police department has not escaped this trend, and all of its new district police chiefs appointed in 1960 were military officers. The General Directorate of Police and Security has assigned local security agents to military-type patrolling

---

[60]Scigliano, Robert, "South Viet Nam: Nation Under Stress," (1963) Houghton Mifflin Company, Boston, page 160.

> and has continually sought more and more military equipment. The primary concern of provincial security officers, the great majority of whom are now military personnel, is to defeat Communism, with a commensurate diminution of interest in conventional police activities."[81]

The police functions in the larger towns are performed by the Municipal Police. This is a uniformed organization and is responsible for the maintenance of law and order as directed by the national government, the guarding of public buildings, bridges and communication systems; the investigation of ordinary crimes; the enforcement of city ordinances; traffic control and patrolling of the streets.

In the rural areas the Civil Guard was established in 1955 as a semi-military organization charged with insuring public safety, pacification, and the guarding of convoys and public buildings. Self-Defense Corps were created in 1956 as a nonuniformed village police force whose members serve in their own villages on a part-time bases.

The National Security Police is a plain-clothes central law enforcement agency sometimes called the

---

[81]Scigliano, Robert, "South Viet Nam: Nation Under Stress" (1963) Houghton Mifflin Company, Boston, page 166.

Vietnamese Bureau of Information. It has nationwide responsibilities in such fields as general intelligence, counterintelligence, subversive activities and major crimes. The political section investigates and reports on political activities everywhere in the country. The judicial section hears preliminary testimony and prepares cases for court trial. Other sections and groups handle pasaport and visa applications, checks on applicants for government positions, customs, internal revenue, aliens, immigration and violations involving moral turpitude.

With much of the Vietnamese police units involved directly with military operations one might ask, who is minding the store, so far as the enforcement of regulations and the usual police responsibilities? This situation is causing problems and the United States Agency for International Development will spend $27 million this year in an effort by the National Police Force to curb the misuse of U.S. aid and to stop the flow of contraband to the Viet Cong.[82]

---

[82]See generally article by Richard Harwood, "Congress Is Offended By Saigon Aid's Odor," The Washington Post, Sunday, Feb. 6, 1966.

One AID official stated, "The pelferage from the docks in Saigon is as high as anywhere in the world. Some of it is organized, some of it involves authorities of the Government of Viet Nam and some of it involves collusion with the Viet Cong." Representative Wayne L. Hays, returned from a trip to Saigon with the second hand report that, 'most of the aid sent out there has been stolen either by Americans or the Vietnamese--most by the Vietnamese."

As reported in the Washington Post the continued build up in the National Police Force is, "to stop the flow of contraband food, medicine and war material to the Viet Cong." The National Police Force will be increased to 72,000[83] by the end of this year. The equivalent of 30,000 are presently engaged in the anti-contraband effort, including 12,000 in Saigon alone. In 1965 they arrested 92,000 thieves and smugglers and seized 1 million tons of contraband rice, 93,000 units of medicine, 32,000 items of weaponry, and 225,000 units of miscellaneous material.

---

[83]During the Malaya emergency the police force was raised to 30,000, including the paramilitary Police Field Force, augmented by 41,000 Special Constables responsible for resource control and rural internal security.

The seriousness of the enforcement of resource control regulations cannot be definitely computed. However, the above figures of recovery indicate there must be the loss of a gigantic amount to the Viet Cong. The unfavorable effect of this leakage is even more startling when one considers that during the last year the enemy has been receiving an average daily flow of 12 to 30 tons of supplies from North Viet Nam. Officials in Saigon believe these supplies are mostly ammunition and heavier weapons as the guerrillas try to make use of what they can capture or acquire in South Viet Nam.[84] These statistics indicate that so far as logistics are concerned the ability of the Viet Cong to circumvent the enforcement of the resource controls has been a greater victory than they have ever won on the battlefield.

---

[84]See generally, New York Times article, "Viet Cong's Needs Far Below G.I.'s," by Max Frankel, 3 March 1966.

CHAPTER IX

SUMMARY AND RECOMMENDATIONS

The usual beginning of insurgency warfare is not dramatic and often not recognizable, being disguised and mistaken as lawlessness with no particular political overtones. The country is not swept by an aura of danger or even alarm and the population for the most part will not at first have any indication of their future suffering if the problem is not dealt with. Communist insurgent campaigns, which they call wars of national liberation, begin with insignificant acts presenting little threat, at that time, to the established government. These incidents are not so grave as to justify the government placing in effect a state of siege, state of emergency or martial law. Actually to institute such strong measures at first would in many countries be a political, if not a constitutional or legal impossibility, and in some cases would be of greater assistance to the insurgents than the government as a result of public reaction to increased controls and deprivation of personal liberties.

However, this malignant infection in the body

politic must be recognized and identified for what it is at the beginning. This early detection of political cancer depends on an effective internal security system with extensive and reliable intelligence gathering facilities. The battle against insurgents begins long before the first riot occurs or the first demonstration is staged. During the build up of insurgent feelings and followers there must be close coordination between the civil and military branches of the government in intelligence gathering and repressive action. The first overt counterinsurgent moves will, of course, depend on the governmental structure and political atmosphere of the country involved, but as a rule it will be met by the civil arm of government through civil court processes. The tactics used will probably be those usually employed in population control to prevent lawlessness. These initial rebel moves will for the most part appear to be a popular expression of the local inhabitants feelings, short in duration, and involving little if any logistical support, at this time there is no question of resource control involved.

However, it will soon be apparent if this

disregard for established order was an isolated incident or the beginning of an insurgency war. The beginning, may be more obvious in some areas such as wide spread, systematic, selected terrorism and assassinations revealing a planned attack on the governmental hierarchy as occurred in Viet Nam in 1957.[85]

It is at this time, and the sooner it can be identified the better, that the government must start to take all the measures necessary to meet the insurrency going on within its borders.

Measures may be simultaneous and not one step after the other as detailed here. The first measure

---

[85]"In mid-1957 the first deliberate offensive of the insurgents began. Their target was simple and well chosen: the village official. In a country in which 80 per cent or more of the population lives in 17,000 hamlets spread over 8,000 villages, the village chief or secretary, and the 'notables' who make up the village council, are the key links between the central government and the people. Once this link is broken by terror, 'feedback' ceases and the central authorities gradually become isolated from the country at large. Orders given from above no longer are enforced at the village level, and the government begins to, in a beautiful French word-image, 'legiferer dans le vide' ('to legislate in the great void'). It still has an extensive bureaucracy, a ubiquitous police, and a powerful army, but it no longer may control much outside of the key cities and (during the day) the major roads." "The Two Viet Nams," by Dr. Bernard B. Fall, Frederick A. Praeger, Publisher.

to meet the danger must be an increase in the power of the government to act and act quickly. The usual processes of peace time government will probably not be sufficient to meet the threat of an organized insurgent movement.

Governments have historically employed various plans to meet external and internal dangers such as the State of Seige used by the French or the Defense of the Realm Statutes used by the English or the assumption of martial law powers by various common law nations. These measures have historically been called forth to meet a clear and present danger requiring immediate action of a strong nature. As discussed earlier the beginnings of insurgency are usually insignificant and do not rally the necessary support for strong dictorial action by the established government. However, the powers to be assumed must be adequate and timely to meet the threat. The numerous successes of insurgency attacks in recent history have shown a tendency of endangered nations to underestimate the threat rather than to over react to the danger.[86] This was clearly pointed out by

---

[86]"The Algerian revolution caught France totally by surprise. The quiet years that had

Dr. Bernard Fall in his book[87] concerning Viet Nam when he stated:

> "In sum, in this war in which the peasantry of South Viet-Nam is the primary target, the Communists were given a three-year headstart--from 1957 until 1960--before it was ever admitted that a real threat existed, and almost two more years elapsed before any organized attempt was made to distinguish between routine military countermeasures and a proper combination of constructive socio-economic endeavors and military tactics adapted to the war that was being fought."

The action required by the endangered government presents a problem far more complicated than

---

[86] followed the May 1945 uprising had lulled the French Administration into a false sense of security. Accordingly, the extent of the new revolt and the number of troops required to quell it were grossly underestimated. The French Administration was convinced that it was facing another tribul uprising which could be crushed in a matter of a few months. When it became apparent that this was indeed a revolution, the French Army found itself unprepared. It lacked units in France for this kind of warfare. The veterans of the war in Indochina had not yet returned, and the units that had been initially sent to Algeria were unable to cope with the situation. They were NATO-type divisions created for a European war. Heavy and massive, equipped to fight a frontal war, they proved to be unadaptable to the geographic conditions of combat in Algeria, and ineffectual against the extremely flexible techniques of guerrilla warfare . . . . ." Special Operations Research Office, "Casebook On Insurgency And Revolutionary Warfare," 23 Case Summary Accounts (1962) page 237.

[87] Fall, Bernard B., "The Two Viet-Nams," Frederick A. Praeger, page 196.

an outright attack would present. However, there are certain known factors in any insurgent war: (1) the people are the objective, (2) the governmental officials will be prime targets, and (3) the insurgents must be supported by the population. To meet this strange and often elusive attack a program of continguency regulations should be prepared for each country and ready for implementation in nations likely to face insurgency war. Our planners have made and are making country law studies and area studies for many nations in which we may someday be invited to operate. A pre-written set of regulations controlling the legal resources of a nation should be the next logical step to the country law study and area study. In the area of military operations we do not wait until the commencement of actual combat to write plans and we should not wait until we need emergency laws before we draft them.

Our own nation, for example, has mobilization laws already written and prepared to go in the Congressional hopper should an occasion arise when they are needed. Studies and plans should be made and constantly up-dated by our military and civilian

government leaders working in cooperation with the officers and officials of the subject nation to prepare emergency plans to control natural resources.

The situation in the nation involved would determine the items controlled, manner of control, the responsible agency or branch of government, and the wording of the regulations and statutes. Experience in the past has shown that in an insurgent effort the rebels live off the land as much as possible hence food, medicine, weapons and ammunition would be a must for regulatory attention. Other items to be controlled would depend on the local resources within the country that could be utilized by the insurgents either as direct support for their troops or economic support for their cause.

Such pre-planned regulations would have numerous advantages:

(1) Time would be available for through and detailed study in which the control of all resources could be coordinated with each other as well as the military, political and economic programs.

(2) Regulations could be studied in advance by both local officials responsible for their implementation and U.S. advisers that would assist the

friendly nation.

(3) The populace of the country could be informed of the expected regulations, the purpose therefore, and what to expect.

(4) A well planned system of resource control ready for immediate implementation whereby the insurgents would be deprived of the necessities of war could serve as a strong deterrient for any would be trouble maker.

(5) A coordinated and systematic control program covering all resources could be put in effect quickly as needed and thereby avoid a hodge-podge of regulations being issued in a steady stream of ever tightening restrictions. People would be inclined to accept a complete program for war more readily than spur of the moment regulations issued piecemeal. Much of the confusion caused by an endless flow of regulations issued by various Ministries and Departments could be avoided and internal coups are less apt to take place with a government that knows what it wants to do and does it in a timely manner, than one that seems to be aimlessly reacting to crises.

In planning the control of natural resources

and drafting the necessary regulations a knowledge of the country and people is essential and from this starting point imaginative efforts must be employed to make the solution fit the problem. To say this type of plan worked in Malaya hence it will work in Viet Nam is an easy and natural pit in which to fall and can result in the unnecessary loss of life and waste of money, materials, equipment and perhaps the most precious asset of all; time. While the lessons of past experiences must be closely studied and analyzed they must never be accepted as the key to a lock they do not fit. The controls placed on natural resources must be based on the situation that exists at the time and place when needed.

Whereas no two countries will have the identical situation existing in an insurgency war one characteristic all nations have in common is a system of law. The laws are not the same and the stage of development may range from little more than primitive customs to sophisticated statutes and volumes of precedents, but nevertheless a legal system exists. The new laws required to control natural resources should be built on this existing system and where possible follow as many of the accustomed

rules of procedure, evidence, and substantive law as possible.

As new laws and regulations are being planned and put into effect changes in the judicial system must be considered to enforce the decrees firmly, quickly, and justly.

A pre-planned judicial system to enforce the regulations should be prepared along with the pre-planned decrees. The system should be planned in graduated phases ranging from the existing civil court system to the military tribunal. The time and actual establishment of any type of court would have to be a decision made by the local government, but when the time came for the decision the organization, procedure, jurisdiction and type (military or civilian) would be prepared and the decision could be implemented in much less time than if the plans had to be made during the emergency. The often complex system of appeals and appeal boards should also be included in the contingency plans.

As the various plans and programs are drafted and put in effect one thought must be ever kept in mind and that is, we will more than likely be dealing with a relatively new nation and as such these people

are naturally jealous of their new sovereignty, and sensitive to foreign domination, even by a friend. Therefore the enforcement of control regulations must be established in such a way as to be left in the hands of the local authorities.

After contingency emergency regulations are written the various ministries and departments of the local government should be encouraged and assisted, as requested, to plan and write the necessary administrative rules and procedures required to implement the program should it be necessary to order it into effect. These plans should include Tables of Organization and Equipment, responsibilities and jurisdiction of the various agencies of the government.

In drafting the emergency regulations and writing the plans required for their enforcement it must be kept upper most in mind that the purpose of the program is not to entrap the usually poor and often uneducated peasant, but to keep vital resources out of the supply system of the insurgents. Therefore emphasis should be placed on the enforcement procedures and preventative actions rather than punishment of an already suffering people.

BIBLIOGRAPHY

Republic of Viet Nam Orders

Order No. 57-Cab/DN dated 26 January 1952.

Order No. 896-Cab/DN dated 16 December 1953.

Order No. 236-BNV/NC/ND dated 29 October 1955.

Order No. 1234-BNV/CH/ND dated 10 September 1960.

Order No. 1378-BNV/NC/ND dated 20 October 1960.

Order No. 60/249-ND/CC dated 27 October 1960.

Order No. 236-BNV/NC/ND dated 7 April 1961.

Order No. 3495-BYT/PC/ND dated 18 July 1962.

Order No. 62/219-ND/CC dated 3 September 1962.

Order No. 3329-BYT/PC/ND dated 8 October 1962.

Order No. 622-BNV/NC/ND dated 24 October 1962.

Order No. 62/274-ND/CC dated 10 November 1962.

Order No. 738-BNV/NC/ND dated 18 June 1964.

Order No. 3220-BYT/PC/ND dated 5 August 1964.

Malaya Regulations

Regulations Made Under The Emergency Regulations Ordinance, 1948, Federation of Malaya, Paragraphs 2, 4, 5, 6, 8, 9, 12, 13, 14, 15, 16, 17, 30, 32, 34, 35, 37, 38, 39, 40.

Books and Articles

Adkins, E. H., Jr.	"The Police and Resources Control In Counterinsurgency" (1964)
Fall, Bernard B.	"The Two Viet Nams" Frederick A. Prager, Publisher
Frankel, Max	"Viet Cong's Needs Far Below G.I.'s" New York Times, 3 March 1966
Harwood, Richard	"Congress Is Offended By Saigon Aid's Odor", The Washington Post, 6 Feb. 1966
Kelly and Pelletier	"Theories of Emergency Governmen", 11 S.D.L. Rev. 42 (1966)
Kelly and Pelletier	"Legal Control of Populations in Subversive Warfare", 5 Va. J. Int'l L. 174 (1965)
	"Legal Aspects of Counterinsurgency"
	"Resume on Resources Control in the Republic of Viet Nam prepared by Headquarters, United States Military Assistance Command, Viet Nam, 21 January 1965."
Scigliano, Robert	"South Viet Nam: Nation Under Stress", Houghton Mifflin Co. (1963)
Special Operations Research Office	"Casebook On Insurgency and Revoluntary Warfare, 23 Summary Accounts", (1962)
Stanford, Norman R. K. Col.	"Bambo Brigades", Marine Corps Gazette, March 1966

Warner, Denis "The Last Confucion, Viet Nam, South East Asia, and the West", (1964)

thesF265
Legal control of resources in a counteri
3 2768 002 06563 3
DUDLEY KNOX LIBRARY